In the High Court of Punjab and Haryana, Chandigarh.

CWP No. 3306 of 2007

Date of Decision: 5.3.2007

Sarabjit Kaur

....Petitioner

Versus

State of Punjab and others.

....Respondents.

Coram:- Hon'ble Mr.Justice J.S. Khehar.
Hon'ble Mr. Justice S.D. Anand.

Present: Mr. KPS Sandhu, Advocate
for the petitioner.

...

J.S. Khehar, J.

It is not a matter of dispute, that the Department of Horticulture comprises of two separate cadres of ministerial employees. One of the aforesaid cadres is at the Directorate level of the Horticulture Department i.e. the head office cadre and the second cadre is confined to the subordinate offices of the Horticulture Department i.e. the field office cadre.

The petitioner was inducted into the service of the Horticulture Department in the field office cadre. She was subsequently appointed as a clerk in the head office cadre in 1987, although, it is not a matter of dispute, that the petitioner did not fulfil the eligibility conditions for recruitment to the post of clerk in the head office cadre.

Once the petitioner was inducted into the head office cadre, it is natural, that her seniority had also to be regulated in the said cadre. The

action of the respondents in assigning her seniority in the head office cadre had adverse effects on some of the employees of the head office cadre. The said employees, therefore, filed a civil suit, wherein the petitioner was impleaded as a party – defendant. The aforesaid suit bearing No.185 of 21.8.1988 was decreed on 9.9.2006 by the Civil Judge (Junior Division), Chandigarh. The judgement and decree rendered by the Civil Court has admittedly never been challenged at the hands of the petitioner. The impugned order dated 1.2.2007 (Annexure P-5) has been passed by the State government so as to implement the judgement and decree dated 9.9.2006, rendered by the Civil Judge (Junior Division), Chandigarh.

Through the instant writ petitioner, the petitioner does not dispute the findings recorded in the aforesaid judgement and decree nor does the petitioner dispute the factual position noticed in the impugned order dated 1.2.2007 (Annexure P-5). The solitary contention of the learned counsel for the petitioner, however, is that the petitioner has rendered long years of service at the head office cadre, and as such, the action of the respondents in giving effect to the judgement and decree dated 9.9.2006 should be set aside.

Having examined the facts and circumstances of this case as, have been projected before us during the course of hearing, we are of the view, that the petitioner has misused the jurisdiction of this Court under Article 226 of the Constitution of India. The petitioner has not assailed the findings recorded by the civil Court in a civil suit filed by her adversaries, wherein she was herself a party – defendant. The action of the petitioner in approaching this Court without assailing the findings recorded by the civil Court in its order dated 9.9.2006, in our view, is preposterous. In view of

the above, we are satisfied, that the instant writ petition deserves to be dismissed with costs. The instant writ petition is, accordingly, dismissed with costs, which are quantified at Rs.5000/-. The aforesaid costs shall be deposited by the petitioner with the Secretary, Legal Services Authority, Punjab, within one month from the date of receipt of a certified copy of this order.

Disposed of accordingly.

(J.S. Khehar)
Judge.

(S.D. Anand)
Judge.

5.3.2007
sk.